

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO.  
AMD-04-0029

WILLIE MITCHELL, ET AL.,

Defendants

\_\_\_\_\_/

(Excerpts)  
November 16, 2005  
Baltimore, Maryland

Before: Honorable Andre M. Davis, Judge

Appearances:

On Behalf of the Government:

Robert Harding, Esquire

Christine Manuelian, Esquire

On Behalf of Defendant Willie Mitchell:

Timothy J. Sullivan, Esquire

Laura K. Rhodes, Esquire

On Behalf of Defendant Shelton Harris:

Gerard P. Martin, Esquire

William W. Kanwisher, Esquire

On Behalf of Defendant Shelley Wayne Martin:

Thomas L. Crowe, Esquire

James Pyne, Esquire

On Behalf of Defendant Shawn Gardner:

Barry Coburn, Esquire

Adam H. Kurland, Esquire

Mary M. Zajac, RPR  
Room 3515, U.S. Courthouse  
101 West Lombard Street  
Baltimore, Maryland 21201

1 (Proceedings to be Inserted Prior to Colloquy Between  
2 the Court and Shawn Gardner.)

3 THE COURT: Please be seated. Good morning. Counsel,  
4 do we want to move to the evidentiary matters first?

5 DEFENDANT MITCHELL: I object. I object. For the  
6 record, I am Willie Edward Mitchell, Third, in a special  
7 visitation, under threats, duress, and coercion, not general, not  
8 pro se. This Court lacks subject matter jurisdiction for a lack  
9 of verified complaint and lack of verified complaint sworn under  
10 oath. This Court by its own motion can dismiss the alleged  
11 charge and the alleged case against Willie Edward Mitchell,  
12 Third, live flesh and blood man.

13 I do not consent to any of these proceedings. I do not  
14 understand any of these proceedings. I haven't signed any  
15 contract with any agent or agency affiliated with this Court that  
16 compels me to perform to certain terms and conditions.

17 For the record, my attorneys, Mr. Sullivan, Ms. Rhodes,  
18 are fired. They have agreed not to defend the United States, the  
19 Maryland Constitution with their sworn oath to uphold it.

20 They have also sworn an oath to this Court as doing  
21 business as the State of Maryland. Also sworn an oath to the bar  
22 association, along with the prosecutor. So by its own actions  
23 and omissions by not signing my commercial contract or agreement  
24 of conflict of interest to represent me with clean and free  
25 hands, they're incompetent to represent me, Willie Edward

1 Mitchell, Third, live flesh and blood man.

2 Also, for the record, if the United States Attorney's  
3 Office, the United States Attorney himself, or the United States  
4 Assistant Attorneys, Robert Harding and Christine Manuelian, feel  
5 as they represent me, Willie Edward Mitchell, the Third, live  
6 flesh and blood man, they're fired, also.

7 I'm not that man that shows on the face of the  
8 indictment written in all capital letters nor am I the surety of  
9 that name. My name is spelled in proper English grammar as  
10 Willie, capital W, lower case I, lower case L, lower case L,  
11 lower case I, lower case E. Capital E, lower case D, lower case  
12 W, lower case A, lower case R, lower case D. Capital M, lower  
13 case I, lower case T, lower case C, lower case H, lower case E,  
14 lower case L, lower case L. The Third, capital T, lower case H,  
15 lower case I, lower case R, lower case D.

16 I'm not a civil servant, meaning I'm not black,  
17 Afro-American, African-American, Negro, none of the above. And  
18 when subject matter jurisdiction is challenged, all court  
19 proceedings must stop. We must deal with the issue at hand.

20 THE COURT: Be careful, don't knock over the pitchers.

21 DEFENDANT MARTIN: I object to these court proceedings.  
22 For the record, I am no other than Shelley Wayne Martin, live  
23 flesh and blood man, here by special visitation, under threats,  
24 duress and coercion, not general, not pro. This Court lacks  
25 subject matter jurisdiction for lack of verified complaint and

1 lack of verified complaint sworn under oath.

2 This Court by its own motion could dismiss these  
3 alleged charges against Shelley Wayne Martin, live flesh and  
4 blood man.

5 I do not consent. I do not understand any of these  
6 court proceedings. I do not understand any of these charges in  
7 this alleged case, in AMD-04-029. I didn't sign any contract  
8 with this court, any agent or agency affiliated with this court  
9 that compels me to act under certain terms and conditions.

10 Also, for the record, if anybody in the United States  
11 Attorney's Office thinks they represent Shelley Wayne Martin,  
12 live flesh and blood man, they are fired, including assistants  
13 that are here present today, Ms. Manuelian, Mr. Harding.

14 Also, for the record, if Jim Pyne and Thomas Crowe  
15 think they represent Shelley Wayne Martin, live flesh and blood  
16 man, they are fired because they agree not to defend the  
17 Maryland, United States Constitution they were sworn to uphold.  
18 They also have a sworn oath with the federal courts, doing  
19 business as the State of Maryland.

20 They also have a sworn oath to the bar association,  
21 along with the prosecutors.

22 So by its own action or omission of not signing the  
23 attorney's contract or commercial agreement of no conflict of  
24 interest, there is a conflict to represent me.

25 Also, for the record, I am not a civil servant, I am

1 not a black, Afro-American, colored, Negro or any of the above.

2 DEFENDANT HARRIS: I also object to these court  
3 proceedings. For the record, are you aware that I am no other  
4 than Shelton Lee Harris, Junior, live flesh and blood man, here  
5 by special visitation, under threats, duress and coercion, not  
6 general and not pro se. This Court lacks subject matter  
7 jurisdiction for lack of verified complaint and for lack of  
8 verified complaint sworn under oath.

9 This Court by its own motions can dismiss the alleged  
10 case and the alleged charges against me, Shelton Lee Harris,  
11 Junior, live flesh and blood man. I don't consent. I don't  
12 understand any of these Court's proceedings. I didn't sign any  
13 contract with this court, any agency affiliated with this court  
14 that compels me to perform certain terms and conditions.

15 If these attorneys, Gerard Martin or Bill Kanwisher,  
16 think they represent me, they are fired. I sent them an attorney  
17 contract by affidavit of commercial agreement of no conflict of  
18 interest, which they did not respond to. Therefore, the  
19 attorneys has agreed not to defend the Maryland and United States  
20 Constitution they have swore to uphold.

21 They have also sworn an oath to the federal courts,  
22 doing business as the State of Maryland, and to the bar  
23 association. So by their own actions and omission, not signing  
24 the contract by affidavit, there is a conflict of interest.

25 As a matter of fact, I want counsel. Yet every

1 attorney I have spoken with has a conflict of interest because  
2 they have sworn an oath to support my adversary, the United  
3 States of America and the United States District Courts.

4 And if the United States Attorney himself and Assistant  
5 United States Attorneys, Robert Harding and Christine Manuelian,  
6 think they represent me, they are fired.

7 Also, for the record, I am not colored, black, Negro,  
8 or Afro-American.

9 MR. COBURN: Your Honor, I request to be heard before  
10 Mr. Gardner says anything. I think Your Honor has discretion to  
11 do that and request that Your Honor hear me before he grabs the  
12 microphone and says anything.

13 THE COURT: Certainly, Mr. Coburn.

14 MR. COBURN: I appreciate that very much.

15 As Your Honor knows, this is something that's arisen  
16 only extremely recently. And my co-counsel and I, and I think  
17 all the other lawyers here, are striving to understand just  
18 exactly what's going on.

19 My concern, and I think it is an extremely serious  
20 concern at this very moment, is that to the extent -- and  
21 obviously my only concern is to Mr. Gardner, I don't represent  
22 any of the other defendants here -- to the extent he says  
23 anything at this proceeding, should this case end up going to  
24 penalty phase, I'm extremely concerned that the government may  
25 seek to make use of it as an aid to arguing to the jury in favor

1 of death as opposed to life without parole.

2 My concern about this relates specifically to one  
3 issue. There is very likely to be a mitigating factor that we're  
4 going to urge strenuously to the jury in this case with respect  
5 to adjustment to incarceration and lack of dangerousness to other  
6 inmates and prison guards and so on. My concern is that the  
7 government is going to try to make use of what the defendants are  
8 saying here right now to argue against that mitigator and  
9 possibly to argue against certain aggravators that they are going  
10 to propose.

11 So I haven't had a chance, nor has Professor Kurland,  
12 to talk to Mr. Gardner about this. I don't think he's advised as  
13 of right now with respect to this, what I consider to be an  
14 extremely grave danger. So I would ask Your Honor either not to  
15 hear from him right now until such time as we have a chance to at  
16 least talk to him to make sure he has a clear understanding of  
17 what's going on, or if there's any sense where he has to talk  
18 immediately, I would ask Your Honor to adjourn the proceeding  
19 until we have a chance to talk to him.

20 THE COURT: Thank you, Mr. Coburn. Well, I think the  
21 record will reflect with perfect clarity that I never recognized  
22 any of the defendants to speak.

23 A DEFENDANT: I object.

24 A DEFENDANT: I object.

25 THE COURT: I entered the court and immediately

1 addressed my remarks to the United States Attorneys as to whether  
2 we should begin with the evidentiary issues that are before the  
3 Court today. And before Mr. Harding or Ms. Manuelian had an  
4 opportunity to respond, you all saw and heard Mr. Mitchell grab  
5 the microphone there at trial table and began to speak. And  
6 until you spoke, the only people speaking in the courtroom were  
7 Mr. Mitchell and his codefendants, as we just heard.

8 A DEFENDANT: I object. I'm not a defendant.

9 A DEFENDANT: I object.

10 THE COURT: Now, it appears that at least as to these  
11 three defendants there's --

12 A DEFENDANT: I object. I'm not a defendant in this  
13 matter.

14 THE COURT: -- there's an intention --

15 A DEFENDANT: I also object.

16 THE COURT: -- to disrupt these proceedings by voicing  
17 objections whenever the Court attempts to address counsel. And  
18 we'll just see where it goes.

19 If you want to speak to Mr. Gardner, certainly you can  
20 do that now.

21 MR. COBURN: I would --

22 A DEFENDANT: I object.

23 THE COURT: I'm sorry. I didn't hear you. I didn't  
24 hear you.

25 MR. COBURN: I would be very grateful for the



1 opportunity to speak to him before he says anything, Your Honor.

2 DEFENDANT GARDNER: I object.

3 THE COURT: The record will reflect that Mr. Gardner  
4 just said "I object."

5 What I'm going to do, Mr. Coburn, is I'm going to turn  
6 on the husher for just a few moments.

7 A DEFENDANT: I object.

8 THE COURT: And give you and Mr. Kurland an opportunity  
9 to speak to Mr. Gardner.

10 MR. COBURN: Thank you so much, Your Honor.

11 (Pause in proceedings.)

12 THE COURT: Okay. Mr. Coburn, let me, before I hear  
13 from you, let me just state explicitly what I didn't have a  
14 chance to state before but which you quite correctly leapt to  
15 your feet to try to make clear to your client and all the  
16 defendants.

17 A DEFENDANT: I object.

18 A DEFENDANT: I object.

19 THE COURT: So far as I can tell, subject to any future  
20 rulings of the Court, under these circumstances anything that any  
21 defendant says --

22 A DEFENDANT: I object.

23 A DEFENDANT: I object.

24 THE COURT: -- as the defendants can well see for  
25 themselves --

1 A DEFENDANT: I object.

2 A DEFENDANT: I object.

3 THE COURT: -- any such statements are being made part  
4 of the record. And it could well be the government will be  
5 permitted to use any such statements in future proceedings in  
6 this case. So each defendant --

7 A DEFENDANT: I object.

8 A DEFENDANT: I object.

9 THE COURT: -- is well advised not to say anything, to  
10 confer with his counsel, and to consider seriously the advice  
11 that they get from their counsel.

12 A DEFENDANT: I object.

13 A DEFENDANT: I object.

14 DEFENDANT HARRIS: Bill Kanwisher and Gerald Martin are  
15 fired.

16 A DEFENDANT: I object.

17 THE COURT: Now, Mr. Coburn --

18 A DEFENDANT: I object.

19 THE COURT: -- did you need to say anything more at  
20 this point? Approach the lectern, please.

21 DEFENDANT GARDNER: I object. For the record, I am no  
22 other than Shawn Earl Gardner, live flesh and blood man here,  
23 subject to visitation, under threat, duress and coercion, not  
24 general, not pro se. This Court lacks subject matter  
25 jurisdiction for lack of verified complaint and lack of verified

1 complaint sworn under oath.

2 This Court, by its own motion, can dismiss this alleged  
3 case and alleged charges against Shawn Earl Gardner, live flesh  
4 and blood man. I don't consent. I don't understand any of these  
5 court proceedings. I didn't sign any contract with this court or  
6 any agent or agency affiliated with this court that compelled me  
7 to perform under certain terms and conditions. I do not  
8 understand any of these alleged charges in Case Number AMD-04-029  
9 in the district court located at 101 Lombard Street, Baltimore,  
10 Maryland, 21201.

11 For the record, if Barry Coburn and Adam Kurland think  
12 they represent me, they are fired, because I sent them both  
13 attorney contracts by affidavit of commercial agreement of no  
14 conflict of interest, which they did not respond. Therefore,  
15 they have agreed not to defend the Maryland and United States  
16 Constitution they have sworn to uphold. They also have sworn an  
17 oath to the federal courts doing business as the State of  
18 Maryland. They also have sworn an oath with the bar association,  
19 along with the prosecution.

20 So by their own action and admission of not signing the  
21 contract I sent by affidavit, there is a conflict of interest.

22 As a matter of fact, I want counsel. Every attorney I  
23 have spoken with have a sworn oath to support my adversary, the  
24 United States of America and the United States District Court.

25 If the State's Attorney, Rod Rodstein (sic) thinks he

1 represents me, he is fired. If Assistant United States Attorney,  
2 Robert Harding, thinks he represents me, he's fired. If  
3 Assistant United States Attorney, Christine Manuelian, thinks she  
4 represents me, she's fired.

5 I am no civil servant. I am not black, colored,  
6 Afro-American or Negro.

7 THE COURT: All right. Let me say to the defendants --

8 A DEFENDANT: I object.

9 A DEFENDANT: I object.

10 A DEFENDANT: I object. I'm not a defendant in this  
11 matter.

12 A DEFENDANT: I'm not a defendant. I'm a live flesh  
13 and blood man.

14 THE COURT: Your objections are noted for the record.  
15 If it's your intention to interrupt the Court whenever the Court  
16 attempts to speak, you're going to force the Court simply to  
17 remove you from the courtroom. And I don't want to do that.

18 I think you owe it to your attorneys --

19 DEFENDANT MARTIN: I object. I fired Thomas Crowe  
20 and --

21 THE COURT: I understand you wish to discharge your  
22 attorneys and we will get to that, if you will just give the  
23 Court a chance to proceed.

24 A DEFENDANT: I do not consent or understand any of  
25 this court's proceedings.

1 THE COURT: Well --

2 A DEFENDANT: I object.

3 THE COURT: Well, I want to give each --

4 DEFENDANT MITCHELL: I object that you keep calling me  
5 a defendant, which I'm not, in this matter. So I would please, I  
6 would ask you to address me by my God-given name, which is Willie  
7 Edward Mitchell, the Third. Thank you.

8 THE COURT: I'm trying to address the lawyers. I want  
9 to invite Mr. Sullivan and Ms. Rhodes to approach the lectern and  
10 make any statement they deem appropriate or necessary at this  
11 time by way of explanation or non-explanation.

12 (Pause in proceedings.)

13 THE COURT: Let me just say, Mr. Sullivan, what you and  
14 counsel may already be aware of. The Court is fully aware of the  
15 phenomenon that we are witnessing this morning. And indeed, like  
16 Judge Motz, I have another case in which the defendant has made  
17 assertions and filed papers similar to the papers that were filed  
18 in this case.

19 As we all are probably aware, just last week Judge Motz  
20 tried to verdict two defendants who were making the same sorts of  
21 claims that we are beginning to see more and more of. So I have  
22 the general background knowledge of this phenomenon and I suspect  
23 that counsel are aware as well.

24 So I'll be glad to hear from Mr. Sullivan and then I'll  
25 go down the line and give other counsel an opportunity to be

1 heard.

2 MR. SULLIVAN: Thank you, Your Honor. Your Honor, the  
3 only prudent thing that I think I can say at this point is that  
4 Ms. Rhodes and myself stand ready, willing and able to represent  
5 Mr. Mitchell.

6 A DEFENDANT: I object.

7 MR. SULLIVAN: That we don't believe there's been an  
8 effective assertion of his right to self-representation under  
9 Faretta. And we're ready to assist him.

10 A DEFENDANT: I object.

11 THE COURT: Yes.

12 MR. CROWE: Your Honor, I agree with Mr. Sullivan that  
13 there hasn't been an assertion to the right of  
14 self-representation under Faretta. There has been --

15 A DEFENDANT: I object.

16 MR. CROWE: -- difficulty, and I think other defense  
17 counsel have had some difficulty preparing for trial. I would  
18 suggest to the Court the appropriate thing to do is to adjourn  
19 these proceedings for perhaps two hours to give counsel a chance  
20 to confer with their clients --

21 A DEFENDANT: I object.

22 MR. CROWE: -- in the marshal's lock-up. It may or may  
23 not be successful but I think it's what should happen at this  
24 point.

25 THE COURT: Thank you, Mr. Crowe. Mr. Martin?

1           DEFENDANT HARRIS: I object to anything Gerald Martin  
2 and Bill Kanwisher is about to say.

3           THE COURT: It's noted.

4           MR. MARTIN: Your Honor, I echo what Mr. Sullivan and  
5 Mr. Crowe said, although I truly believe, having attempted to  
6 speak with Mr. Harris on a number of occasions --

7           DEFENDANT HARRIS: I object.

8           MR. MARTIN: -- over the last few days, that it's not  
9 going to bear any fruit. He won't talk to me. But I do think we  
10 should at least try. And I echo everything else that they said.  
11 I don't think there's been an effective --

12           DEFENDANT HARRIS: I am no longer Gerard Martin and  
13 Bill Kanwisher's client. I am not a defendant in this matter.

14           THE COURT: Would you repeat that?

15           DEFENDANT HARRIS: I am not a defendant in this matter.

16           MR. MARTIN: I agree with what Mr. Mitchell says, for  
17 the record. I mean Mr. Sullivan.

18           MR. COBURN: I know that Mr. Gardner is a live flesh  
19 and blood man and I care deeply about him. I think he knows  
20 that. I think what's going on here basically is that -- I also  
21 join in with respect to Faretta.

22           But I'm extremely concerned, extremely concerned about  
23 whether we're in a position right now to hold proceedings.

24           THE COURT: Mr. Coburn, have you received or at least  
25 -- (inaudible.) One of the things that strikes me about what

1 these defendants filed, they are identical. They filed identical  
2 pleadings. Each filed motions for requests for understanding.  
3 It certainly appears they were filed on the same day. It appears  
4 they were prepared on the same word processor.

5 Do you have any insight? Who's doing this for them?

6 MR. COBURN: I'm wondering the same thing, Your Honor.  
7 I don't know who's doing it for them and I don't have any insight  
8 into it. But the fact, the observation that Your Honor made  
9 plays directly into my concern about individual decisionmaking.

10 THE COURT: Well, I can tell all of counsel that if it  
11 comes down to a, to a Faretta colloquy proceeding, as labor  
12 intensive as it would be, I would certainly conduct those  
13 proceedings one by one with each defendant.

14 A DEFENDANT: I object. I am not a defendant.

15 A DEFENDANT: I object. I am not a defendant in this  
16 matter.

17 A DEFENDANT: I object. I am not a defendant in this  
18 matter.

19 THE COURT: Let me give the government an opportunity  
20 to be heard. Ms. Manuelian, were you in Judge Motz's case?

21 MS. MANUELIAN: Yes. Yes.

22 THE COURT: I thought so.

23 MS. MANUELIAN: Your Honor, my understanding of this  
24 motion that's been going around that was filed by the defendants  
25 and that was before Judge Motz, it's not that it's a Faretta



1 issue that the defendants wish to represent themselves. It's  
2 that the defendants believe nobody that is appointed by the Court  
3 can adequately represent them without signing the contracts,  
4 which obviously will not be done.

5 The prior experience that I had with Judge Motz I think  
6 was a good one in terms of Judge Motz making the record as best  
7 he could in that instance. In that instance the two defendants  
8 were not as vocal as these defendants. But a record was made --

9 A DEFENDANT: I object. I'm not a defendant in this  
10 matter.

11 A DEFENDANT: I object.

12 MS. MANUELIAN: -- the record was made with respect to  
13 ascertaining that they were knowingly, essentially, absenting  
14 themselves from the proceeding. And I think we do need to do  
15 that at some point, as difficult as it might be.

16 The government's position, obviously, is clearly the  
17 defendants have a right to be in the courtroom.

18 A DEFENDANT: I object. I am not a defendant in the  
19 matter.

20 MS. MANUELIAN: We feel that they should be in the  
21 courtroom. There may be issues that arise during the proceedings  
22 with respect to identifications. That was an issue that we  
23 addressed with Judge Motz. It probably wasn't as critical,  
24 however, in our case because it was a lot of law, there were a  
25 lot of law enforcement witnesses.

1           We actually are going to have civilian witnesses and  
2       identifications are going to be a major issue in this case.

3           Obviously, the Court's concern, especially given what  
4       we're seeing this morning, is how disruptive the individuals will  
5       be during the proceedings. And what Judge Motz did was told the  
6       individuals in the courtroom or the subject of charges that at  
7       any point in time --

8           A DEFENDANT: I object.

9           A DEFENDANT: I object.

10          MS. MANUELIAN: -- they would be given an opportunity  
11       to advise the marshals that they wanted to come back into the  
12       courtroom and then he would make provisions to do that.

13          They were brought in in important proceedings. In  
14       other words, the start of the case, the record was made. They  
15       were then taken out at the time the jury was actually selected.  
16       They were brought back in to view the panel that had been  
17       selected. Then they were gone for most of the proceedings  
18       thereafter. They were brought back in to be advised of their  
19       right to testify in their own behalf. Then they were not brought  
20       in for the hearing of the verdict because they made it very clear  
21       that they did not wish to be part of the proceeding.

22          THE COURT: I had a somewhat similar situation just a  
23       couple years ago where the defendants chose not to attend the  
24       trial but I was able to have a video in the lockup so they could  
25       watch. And I followed the procedure that I just described and

1 the Fourth Circuit found no difficulty. But the inquiry must be  
2 searching and thorough, of course, to insure that the defendant  
3 chooses not to be present. And the defendant has to be given  
4 regular opportunities, as Judge Motz did, to change his mind and  
5 to join the proceedings.

6 I am not aware, Ms. Manuelian, of anything like this  
7 ever happening in a capital case.

8 MS. MANUELIAN: No, Your Honor. I'm not aware of that.  
9 It's my understanding that a lot of these rogue motions are  
10 making their way through the Internet and that that's how they're  
11 coming into the hands of, I guess, the individuals in jail who  
12 feel that this is something that they need to do to preserve the  
13 record.

14 What Judge Motz made very clear to them repeatedly, as  
15 I'm sure the Court will, that by participating in the proceedings  
16 they're not waiving their right to raise the subject matter  
17 jurisdiction argument should the case go to verdict and they are  
18 convicted and then they file an appeal.

19 And they also were told that they had the opportunity  
20 to view the proceedings, that we could set something up for that.  
21 They declined that because of the nature of the motion.

22 THE COURT: Okay.

23 MS. MANUELIAN: And Your Honor, we only received a two  
24 page motion. I don't know if we have a complete motion. You  
25 seem to have a thicker pack. So we might want to get a copy of

1 that.

2 THE COURT: There appears to be some redundancy.  
3 Frankly, I'm not even sure -- actually, yeah. It appears that  
4 there are, I guess, five separate documents. But we will figure  
5 it out and make sure that everybody has a complete set of  
6 whatever was filed.

7 Is there another court file or do I have everything?  
8 Yeah. It looks like the pro se documents haven't even made their  
9 way into the court file yet. The clerk's stamp is on the copies  
10 that I have but, frankly, I'm not sure.

11 We'll be careful because I know that sometimes the  
12 clerk's office understandably can become somewhat confused in a  
13 criminal case when documents come in, pro se documents come in.  
14 And it may be that what I'm holding in my hand are the originals  
15 and two copies and that the originals haven't yet been filed and  
16 docketed.

17 Everything came in yesterday. So they were just  
18 received within the last 24 hours or the last day. These were  
19 filed on the 14th.

20 They have been docketed. They were docketed yesterday  
21 afternoon. So the question is whether, whether, in fact, I have  
22 the originals or whether the originals are just still in the  
23 clerk's office. And I frankly don't see a certificate of  
24 service. Although I think you did become aware that they've been  
25 filed.

1 MS. MANUELIAN: We received something last week. That  
2 was just a two page motion objecting to the subject matter  
3 jurisdiction. What you received yesterday seems to be something  
4 different, which we don't have.

5 THE COURT: We'll figure all that out.

6 MS. MANUELIAN: Judge, with respect to, I didn't  
7 address some of the comments of counsel with respect to taking a  
8 little bit of time to talk to their clients. I don't think --

9 A DEFENDANT: I object. I'm not a client in this  
10 matter.

11 MS. MANUELIAN: I don't think we would object to a  
12 court recess for that because we do need to make some sort of  
13 record about the inability of counsel to confer.

14 THE COURT: Okay. Yes, Mr. Sullivan.

15 MR. SULLIVAN: With all due respect to Ms. Manuelian  
16 and Mr. Crowe, two hours or three hours is not going to, not  
17 sufficient time to resolve this problem. You know, I would  
18 suggest to the Court that we plow ahead with full speed.

19 And what Ms. Manuelian raised, we're, the death penalty  
20 counsel here are in a terrible, terrible position. Quite  
21 frankly, I'm terribly conflicted by this because I have plenty of  
22 clients throughout the country who want me to save their life.  
23 And it just puts us in a terrible bind.

24 Either we adjourn today and use another one of our  
25 dates coming up that's already scheduled to move forward, but to

1 just have two hours off, I know that Mr. Mitchell is not going  
2 to --

3 DEFENDANT MITCHELL: I object.

4 MR. SULLIVAN: And the rest of them are probably having  
5 the same problem with their counsel, too. So to delay a couple  
6 hours, we're going to be exactly back where we are today.

7 In the context of the capital litigation, Your Honor, I  
8 can only speak for myself. I'm not looking forward to  
9 representing an empty chair in a penalty phase. And there's all  
10 kinds of problems with that, given the Eighth Amendment overtone  
11 that they're seeking to take Mr. Mitchell's life.

12 DEFENDANT MITCHELL: I object.

13 THE COURT: Mr. Sullivan, I assure you, and I'm  
14 confident I speak in a spirit joined in by Ms. Manuelian and Mr.  
15 Harding, as well as other counsel, we know exactly what you're  
16 saying. You've said it very well and clear. Frankly, it can't  
17 be improved upon. It is quite apparent that Mr. Mitchell, Mr.  
18 Martin, Mr. Harris --

19 A DEFENDANT: I object.

20 DEFENDANT MARTIN: I object. My name is Shelley Wayne  
21 Martin, live flesh and blood man.

22 DEFENDANT HARRIS: My name is Shelton Lee Harris,  
23 Junior, live flesh and blood man.

24 DEFENDANT MITCHELL: My name is Willie Edward Mitchell,  
25 Third, live flesh and blood man, here by special visitation.

1 THE COURT: The Court thought I was okay calling you  
2 Mr. Mitchell.

3 DEFENDANT MITCHELL: No. The Court, I asked the Court  
4 to call me Willie Mitchell, Willie Edward Mitchell, Third, to be  
5 exact, my God given name, Mr. Davis. Thank you.

6 THE COURT: So I was saying that the defendants --

7 A DEFENDANT: I object.

8 A DEFENDANT: I object.

9 A DEFENDANT: I object.

10 A DEFENDANT: I object.

11 THE COURT: -- seem determined to be as disruptive as  
12 they can be verbally, so that that is a new twist to this  
13 phenomenon. I'm not aware, as Ms. Manuelian mentioned, of any  
14 other defendant in any other cases --

15 A DEFENDANT: I object.

16 A DEFENDANT: I object.

17 DEFENDANT MARTIN: I object. I am no other than  
18 Shelley Wayne Martin, live flesh and blood man.

19 A DEFENDANT: I object.

20 THE COURT: -- being verbally disruptive. It seems to  
21 me I should proceed to the appropriate inquiry because I think it  
22 would be a real affront to the dignity of counsel and to the  
23 dignity of these proceedings under the circumstances to force  
24 counsel on these defendants.

25 A DEFENDANT: I object.

1           A DEFENDANT: I object.

2           A DEFENDANT: I object. I am not a defendant. I have  
3 not consented to any of these court proceedings.

4           A DEFENDANT: I do not consent to any of these court  
5 proceedings.

6           THE COURT: So I am going to ask the marshals to please  
7 remove Mr. Mitchell, Mr. Martin --

8           A DEFENDANT: I object.

9           A DEFENDANT: I object.

10          DEFENDANT MARTIN: I object. I am no other than  
11 Shelley Wayne Martin, live flesh and blood man.

12          DEFENDANT HARRIS: I am no other than Shelton Lee  
13 Harris, Junior, live flesh and blood man.

14          THE COURT: And we will start the, I don't know if it's  
15 going to turn out to be a Faretta inquiry or not. I suspect not.  
16 But we'll start the inquiry with Mr. Gardner.

17          A DEFENDANT: I object.

18          THE COURT: And the Court will address each of these  
19 individually. I'll ask counsel, of course, to stay with us.

20          So if the marshals would remove these three defendants.

21          A DEFENDANT: Object.

22          A DEFENDANT: I object.

23          DEFENDANT HARRIS: I am no other than Shelton Lee  
24 Harris, Junior, live flesh and blood man.

25          THE COURT: And we will notify the marshal's office



1 when we are ready for Mr. Harris, Mr. Martin and Mr. Mitchell.

2 DEFENDANT MITCHELL: I object. I am Willie Edward  
3 Mitchell, Third.

4 DEFENDANT HARRIS: I object. I am Shelton Lee Harris,  
5 Junior.

6 (Excerpt transcript by Sharon Cook to be inserted  
7 here.)

8 MR. MARTIN: Your Honor if you would, may I say  
9 something?

10 THE COURT: Certainly, Mr. Martin.

11 MR. MARTIN: (Inaudible.) I don't know what's going on  
12 there at Supermax. I don't expect to have a solution to any of  
13 what's going on. I don't think this is going to do anything  
14 other than have them act up again. It may well pre-ordain his  
15 not being here during the proceedings.

16 As you know, Your Honor, I have told them that this is  
17 a fast track to a legal objection. He doesn't want to listen to  
18 me about that. Now I'm stuck in a case where I don't get very  
19 much discovery from the government and I've got to defend him.  
20 It's almost an impossible task.

21 I think I would like to have a little more time than  
22 what we've had here to try to get to him in some manner to talk  
23 to him and maybe perhaps have his mother and sister come see him  
24 before we have to do this because you may well decide at the end  
25 of the next colloquy that you're going to tell him that he can't

1 be in the courtroom. Then I'll really be in a pickle because  
2 I've got another defendant who might be in the courtroom and my  
3 defendant who isn't.

4 It's not easy for anybody to deal with. And I've never  
5 had to deal with this before.

6 Those are my concerns, before you go through that  
7 colloquy with him, Your Honor.

8 THE COURT: Thank you very much, Mr. Martin. I'm very  
9 sensitive of that. I will say, based on what I've observed, I  
10 don't hold out any hope that any of the other three will be  
11 anywhere near as respectful and attentive as Mr. Gardner was.  
12 But we'll see.

13 (Defendant Harris enters the courtroom.)

14 THE COURT: Mr. Harris.

15 DEFENDANT HARRIS: For the record, I don't consent, I  
16 don't understand any of these Court's proceedings.

17 THE COURT: I realize you don't want me to use --

18 DEFENDANT HARRIS: I object.

19 THE COURT: Are you willing to engage in discussion  
20 with me?

21 DEFENDANT HARRIS: I object.

22 THE COURT: You're not willing to listen?

23 DEFENDANT HARRIS: I object.

24 THE COURT: Does that mean no?

25 DEFENDANT HARRIS: I object.

1 THE COURT: Do you realize --

2 DEFENDANT HARRIS: For the record, I am no other than  
3 Shelton Lee Harris, Jr., live flesh and blood man. Here by  
4 special visitation. Here under threats, duress and coercion, not  
5 pro se. This court lacks subject matter jurisdiction for lack of  
6 verified complaint and for lack of verified complaint sworn under  
7 oath.

8 This Court by its own motions can dismiss the alleged  
9 case and alleged charges against me, Shelton Lee Harris, Junior,  
10 live flesh and blood man. I don't consent, I don't understand  
11 any of these Court's proceedings. I didn't sign any contract  
12 with this court or any agent or any agency affiliated with this  
13 court that could cause me to perform certain terms and  
14 conditions.

15 Also, for the record, these attorneys, Gerard Martin  
16 and Bill Kanwisher, are fired. I sent a contract of commercial  
17 agreement of no conflict of interest, which they did not respond  
18 to. Therefore, the attorneys has agreed not to defend the  
19 Maryland and United States Constitution they have sworn to  
20 uphold.

21 They have also sworn an oath to the federal courts  
22 doing business as the State of Maryland, and to the bar  
23 association. So by their own actions and omission of not signing  
24 the contract by affidavit, there is a conflict of interest.

25 As a matter of fact, every attorney I have spoken with

1 has a conflict of interest because they have sworn an oath to  
2 support my adversary, the United States of America and the United  
3 States District Court.

4 If the United States Attorney himself and Assistant  
5 United States Attorneys, Robert Harding and Christine Manuelian,  
6 think they represent me, they are fired, also.

7 For the record, I am not colored, black, Negro or  
8 Afro-American. I don't consent. I don't understand any of these  
9 court's proceedings. Point blank.

10 THE COURT: Okay. Mr. Harris --

11 DEFENDANT HARRIS: I object. My name is Shelton Lee  
12 Harris, Junior, live flesh and blood man.

13 THE COURT: -- since you won't --

14 DEFENDANT HARRIS: That's what I would like for you to  
15 state me by. Shelton Lee Harris, Junior, live flesh and blood  
16 man.

17 THE COURT: Since you won't permit the Court --

18 DEFENDANT HARRIS: I object.

19 THE COURT: -- to address you --

20 DEFENDANT HARRIS: I object.

21 THE COURT: -- what the Court's going to do --

22 DEFENDANT HARRIS: I don't consent. I don't understand  
23 any of these court's proceedings. While we was talking, we  
24 talking about consent, I don't understand any of these court's  
25 proceedings. That's it.

1 THE COURT: I just want you to understand --

2 DEFENDANT HARRIS: I object.

3 THE COURT: -- that what the Court's going to do --

4 DEFENDANT HARRIS: I don't consent. I don't understand  
5 any of these court's proceedings. There's nothing for me to  
6 understand. I don't understand nothing, none of these court  
7 proceedings at all.

8 THE COURT: -- the Court's going to provide you --

9 DEFENDANT HARRIS: I object.

10 THE COURT: -- with a copy --

11 DEFENDANT HARRIS: I object.

12 THE COURT: -- of the transcript --

13 DEFENDANT HARRIS: I object.

14 THE COURT: -- of the Court's discussion --

15 DEFENDANT HARRIS: I don't consent. I don't understand  
16 any of these court's proceedings.

17 THE COURT: -- with Mr. Gardner.

18 DEFENDANT HARRIS: I don't consent. I don't understand  
19 any of these court's proceedings.

20 THE COURT: The information that I provided Mr.  
21 Gardner --

22 DEFENDANT HARRIS: I object.

23 THE COURT: -- applies to your case as well.

24 DEFENDANT HARRIS: I object.

25 THE COURT: And the important thing that you need to

1 understand --

2 DEFENDANT HARRIS: I object.

3 THE COURT: -- is that if you continue to --

4 DEFENDANT HARRIS: I don't consent. I don't understand  
5 any of these court's proceedings.

6 THE COURT: -- if you continue to be disruptive --

7 DEFENDANT HARRIS: Are you aware I am a live flesh and  
8 blood man?

9 THE COURT: -- that you will be removed from the  
10 courtroom --

11 DEFENDANT HARRIS: I object.

12 THE COURT: -- and you will not be allowed --

13 DEFENDANT HARRIS: I don't consent. I don't understand  
14 any of these court's proceedings.

15 THE COURT: -- to remain in the courtroom --

16 DEFENDANT HARRIS: I don't consent. I don't understand  
17 any of these court's proceedings.

18 THE COURT: -- for any of this.

19 DEFENDANT HARRIS: This Court lacks subject matter  
20 jurisdiction for lack of verified complaint and lack of verified  
21 complaint sworn under oath.

22 THE COURT: But you will be free to change your mind --

23 DEFENDANT HARRIS: I don't consent. I don't understand  
24 any of these court's proceedings.

25 THE COURT: -- and return to the courtroom at any time.

1           DEFENDANT HARRIS: I don't consent. I don't understand  
2 any of these court's proceedings. That's it.

3           THE COURT: On December 16th --

4           DEFENDANT HARRIS: I object.

5           THE COURT: -- we will have further proceedings.

6           DEFENDANT HARRIS: I object.

7           THE COURT: You will be brought to the courthouse.

8           DEFENDANT HARRIS: I object.

9           THE COURT: And you will have an opportunity to tell me  
10 then whether --

11          DEFENDANT HARRIS: I object.

12          THE COURT: -- whether you wish to remain in the  
13 courtroom --

14          DEFENDANT HARRIS: I object.

15          THE COURT: -- or whether you would rather remain  
16 outside.

17          DEFENDANT HARRIS: I don't consent. I don't understand  
18 any of these court's proceeding. I didn't sign any contract with  
19 this Court or with any agency affiliated with this Court that  
20 compels me to perform certain terms and conditions. Therefore, I  
21 don't consent. I don't understand.

22          THE COURT: This course of action seriously  
23 undermines --

24          DEFENDANT HARRIS: I object.

25          THE COURT: -- the --

1 DEFENDANT HARRIS: I object, I object, I object.

2 THE COURT: -- the likelihood that you will receive a  
3 fair trial.

4 DEFENDANT HARRIS: I object.

5 THE COURT: All right. Marshals, would you please  
6 remove Mr. Harris from the courtroom? And if you wouldn't mind,  
7 bring --

8 DEFENDANT HARRIS: I object.

9 THE COURT: -- bring out Mr. Martin and Mr. Mitchell  
10 together?

11 DEFENDANT HARRIS: I am Shelton Lee Harris, a live  
12 flesh and blood man, under special visitation, under threats,  
13 duress, and coercion, not general, not pro se. This Court lacks  
14 subject matter jurisdiction for lack of verified complaint and  
15 for lack of verified complaint sworn under oath.

16 (Defendant Harris leaves the courtroom.)

17 THE COURT: What's pretty amazing, frankly, is, in all  
18 honesty, they absolutely have to practice that because those are  
19 some awkward words to put together. And everyone that I've seen,  
20 although Mr. Gardner seemed to be reading his, but the other  
21 defendants seem to have gotten down pretty pat. I don't know.  
22 Maybe there's a tape that they can play.

23 My heart goes out to you, Mr. Martin, it really does.

24 MR. HARDING: Judge, you said December 16th. I think  
25 it's December 8th.



1 THE COURT: Thank you, Mr. Harding. December 8th.

2 Sharon, if you'll prepare a transcript of my colloquy  
3 with Mr. Gardner, just the part of Mr. Gardner, we'll make sure  
4 that each of the defendants gets a copy. I assume the next two  
5 are going to pretty much do the same thing, like Mr. Harris did.

6 Yes, Mr. Crowe.

7 MR. CROWE: On behalf of Mr. Martin, I think Mr. Pyne  
8 and I would like a few minutes to talk with him before the Court  
9 begins the colloquy.

10 THE COURT: Okay. Sure.

11 (Pause in proceedings.)

12 (Defendants Martin and Mitchell enter the courtroom.)

13 THE COURT: Mr. Martin, will you --

14 A DEFENDANT: I object. I am Shelley Wayne Martin,  
15 live flesh and blood man. Shelley, capital S, lower case H,  
16 lower case E, lower case L, lower case L, lower case E, lower  
17 case Y. Wayne, capital W, lower case A, lower case Y, lower case  
18 N, lower case E. Martin, capital M, lower case A, lower case R,  
19 lower case T, lower case I, lower case N. I am a live flesh and  
20 blood man, not a defendant of the court.

21 THE COURT: Are you willing to listen to the Court? I  
22 am asking both of you, are you willing to listen to the Court?

23 A DEFENDANT: I object.

24 (Inaudible.)

25 THE COURT: You are going to have a --

1           A DEFENDANT: I object. I don't understand any of  
2 these court proceedings.

3           THE COURT: The long and the short is --

4           A DEFENDANT: I object.

5           THE COURT: -- it is up to you whether you remain in  
6 the courtroom or not. The constant interruptions are disruptive  
7 to the proceedings.

8           A DEFENDANT: I object. I don't understand.

9           THE COURT: And they will not be, and they will not be  
10 tolerated. Your objections are fully preserved in the record.  
11 Your written motions are in the record and your oral objections  
12 made here this morning, as you well know, are on the record.

13           If there are convictions in this case and there is an  
14 appeal, what you've done so far by filing your motions, the  
15 objections on the record this morning, are more than sufficient  
16 to preserve your rights.

17           A DEFENDANT: I object. I have no rights under the  
18 Constitution.

19           THE COURT: The appellate court will be fully empowered  
20 to review the principles that you have sought to invoke, just as  
21 the Court's earlier rulings, some of which were in favor of the  
22 government, some of which were not in favor of the government.

23           Those that were in favor of the government will be  
24 subject to review by an appellate court if there are convictions  
25 in this case. And even if the appellate court, the United States

1 Court of Appeals for the Fourth Circuit, agrees with the  
2 government on those issues, then those issues can be taken to the  
3 Supreme Court of the United States.

4 Your objections to these proceedings, to the Court's  
5 jurisdiction, to the lack of understanding about these  
6 proceedings, are all preserved in the record. There is  
7 absolutely no reason whatsoever that you must, in order to  
8 preserve your record, object every time the Court or one of the  
9 attorneys says something --

10 A DEFENDANT: I object.

11 THE COURT: -- that you don't like.

12 A DEFENDANT: I am not a defendant in this matter.

13 THE COURT: And that objection is preserved on the  
14 record. So the proceedings will go forward. They will not --

15 A DEFENDANT: I object.

16 A DEFENDANT: I object. I object for lack of verified  
17 complaint, lack of verified complaint under oath.

18 THE COURT: And the question that you will have to  
19 answer is whether you choose to be in the courtroom for these  
20 additional proceedings, including the trial, or not in the  
21 courtroom.

22 If you choose not to be in the courtroom, the Court  
23 will check with you on a regular basis to see whether you changed  
24 your mind.

25 A DEFENDANT: I object. I am not a defendant. I am

1 here under threats, duress and coercion.

2 THE COURT: If you choose not to be here, the Court  
3 will give you the opportunity on a regular basis --

4 A DEFENDANT: I object.

5 THE COURT: -- the Court --

6 A DEFENDANT: I didn't ask.

7 THE COURT: The Court has ruled against your motions.  
8 (Inaudible. Defendants talking over one another.)

9 A DEFENDANT: I object.

10 THE COURT: The Court has ruled against your motions.

11 A DEFENDANT: I object. (Inaudible.)

12 THE COURT: Those are issues that you can raise on  
13 appeal if there is a conviction. But the Court's not going to  
14 permit repeated disruptions to the proceedings.

15 A DEFENDANT: I object. I don't understand any of  
16 these court proceedings.

17 THE COURT: Now, Mr. Gardner was polite enough and  
18 respectful enough when he was here to permit the Court to explain  
19 in considerable detail all of the choices that are before you and  
20 the consequences of the choices you make. The Court will order a  
21 transcript of what I said to Mr. Gardner and I will send each of  
22 you a copy of that transcript so that you can read for yourself  
23 what you won't let me talk to you today about. You can read for  
24 yourselves what your choices are and how you can proceed.

25 But you will be brought back to the courthouse on

1 December 8th, the next date of proceedings in this case.

2 A DEFENDANT: I object.

3 THE COURT: And you will be given the option at that  
4 time whether you wish --

5 A DEFENDANT: I object. I don't understand any of  
6 these court proceedings.

7 THE COURT: -- whether you wish to remain in the  
8 courtroom or whether you would rather remain in the lockup during  
9 the proceedings.

10 A DEFENDANT: I object.

11 A DEFENDANT: I object.

12 THE COURT: Now, on the question of counsel.

13 A DEFENDANT: I object. I do not need counsel in this  
14 matter and I am not a defendant in this case.

15 THE COURT: Do you wish to represent yourself?

16 A DEFENDANT: I object, I object.

17 A DEFENDANT: I object.

18 A DEFENDANT: Conflict of interest. He has a conflict  
19 of interest. I do want to have him but the conflict of  
20 interest --

21 THE COURT: All right.

22 A DEFENDANT: I object. I do not understand any of the  
23 charges.

24 THE COURT: So that if at some point you actually wish  
25 to have the Court discharge your lawyers --

1           A DEFENDANT: I object.

2           A DEFENDANT: I object.

3           THE COURT: But you need to know that that would be a  
4 true, true foolish thing to do, to fire your lawyers. And it is  
5 foolish not to cooperate with them. But under the law, under the  
6 law, even in a death penalty case, even in a death penalty case,  
7 if a defendant --

8           A DEFENDANT: I object.

9           A DEFENDANT: I object.

10          THE COURT: -- insists on representing himself, and if  
11 the Court is satisfied that the defendant in his actions, is in  
12 his right mind and voluntarily and intelligently and knowingly  
13 waives the right to counsel, the Court can permit a waiver of  
14 counsel.

15          The problem here, of course, for you two is that if you  
16 both fire your lawyers --

17          A DEFENDANT: I object.

18          THE COURT: -- and disrupt the proceedings --

19          A DEFENDANT: I object to these court proceedings.

20          THE COURT: -- then you're not going to have anybody  
21 representing you and you're not even going to enter the  
22 courtroom. And there may be somebody out there telling you that  
23 that will be a way for you to proceed, but I assure you it will  
24 not work. It will not work. This case will go forward. It will  
25 go forward.

1           A DEFENDANT: I object, first of all.

2           THE COURT: All right. I will see both of you on  
3 December the 8th.

4           A DEFENDANT: I object. (Inaudible.)

5           THE COURT: You don't have to respond at all. All  
6 right, counsel, we're in adjournment until December 8th, 10:00.

7           (Conclusion of Proceedings.)  
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REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that the foregoing pages constitute the excerpt transcript of proceedings as transcribed by me to the within matter in the matter of USA v. Willie Mitchell, et al., Case Number(s) AMD-04-029, on November 16, 2005.

In Witness Whereof, I have hereunto affixed my signature this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mary M. Zajac,  
Official Court Reporter



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